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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,569	02/27/2006	Johathan Cox	0321.68322	7601
24978	7590	01/12/2010	EXAMINER	
GREER, BURNS & CRAIN			BLAIR, DOUGLAS B	
300 S WACKER DR				
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CHICAGO, IL 60606			2442	
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01/12/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/569,569	<b>Applicant(s)</b> COX ET AL.
	<b>Examiner</b> DOUGLAS B. BLAIR	<b>Art Unit</b> 2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 November 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 6-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement (PTO/US/06)  
 Paper No(s)/Mail Date 12/2/2009
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date: \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The applicant's amendment has overcome the previous rejections based on 35 USC section 101. However amended claim 11 is now rejected under 35 USC section 101 as explained in this office action.

### ***Response to Arguments***

Applicant's arguments with respect to the prior art rejections of claims 1-4 and 6-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The claimed method including step of charging is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example, charging could be

completed by any person demanding money in an accounting capacity without the use of a machine.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent Number 6,144,667 to Doshi et al (part of IDS filed on 12/2/2009).

As to claim 1, Doshi teaches a method for providing telephony services through the Internet, the method comprising steps of: by a host connected to a phone line, providing access to the phone line through the internet; by a server available through the Internet, communicating with the host and with clients through the Internet to provide clients access to phone services via the phone line (Summary of Invention).

As to claim 2, Doshi teaches a server computer accessible through the Internet, the server computer configured to provide access control to a remote client that accesses phone services through a host computer to provide the remote client with phone services available at the host computer (Summary of Invention).

As to claim 3, Doshi teaches the server of claim 2, wherein the server computer is configured to provide one or more of the following services: authentication, tunneling, initiation

of peer-to-peer communication, routing, directory, directory search, and access rights (Summary of Invention).

As to claim 4, Doshi teaches a host computer having access to a local phone service and an Internet connection, the host computer configured to provide Internet server-enabled access to the local phone service via an internet connection by permitting a client to utilize the local phone service (Summary of Invention).

As to claim 6, Doshi teaches the host of claim 4, wherein the server controls client access to the host (Summary of Invention).

As to claim 7, Doshi teaches the host of claim 6, wherein the server is configured to provide one or more of the following services: directory search, voicemail and missed calls, call answering, and call initiation (Summary of Invention).

As to claim 8, Doshi teaches a client device enabled to access a local phone service of a host computer through an Internet connection controlled by a server computer, the client device having functions for requesting access to the local phone service, and for performing communications through an established connection (Summary of Invention).

As to claim 9, Doshi teaches the client of claim 8, wherein the client device is configured to provide one or more of the following services: phone line interface, authentication, verification, call forwarding, call answering, voice mail and missed calls, and local-call routing (Summary of Invention).

As to claim 10, Doshi teaches a system for providing phone services to Internet users through the Internet, the system comprising: one or more host computers, each host computer having access to a local phone service; and at least one server that controls access between said one or more host computers and phone service clients seeking to access phone services through the Internet (Summary of Invention).

As to claim 11, Doshi teaches a business method, the method comprising charging clients for access to the system comprising one or more host computers, each host computer having access to a local phone service and at least one server that controls access between said one or more host computers and phone service clients seeking to access phone services through the Internet and permitting the access via client devices (Summary of Invention).

As to claim 12, Doshi teaches a business method, the method comprising providing virtual local phone service for a fee by providing a simulation of local phone service to remote client devices through the Internet via a plurality of host computers connected to local phone services (Summary of Invention).

### ***Conclusion***

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12/2/2009 prompted a new ground(s) of rejection presented in this Office action. Applicant's amendment to claim 11 necessitated a new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 609.04(b) and § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442